IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22257 of 2007(Y)

DRCNO.449/SBI/KZD/ 0 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

.....

PETITIONER:

MAHESH.R. POTTANGADI,
S/O.RADHAKRISHNAN POTTANGADI,
AGED 43 YEARS,"SREYAS" JANATHA ROAD,
KARUVASSERY P.O.,CALICUT.

BY ADV. SMT.K.K.CHANDRALEKHA

RESPONDENTS:

---

1. RECOVERY OFFICER,DEBTS RECOVERY TRIBUNAL
ERNAKULAM BENCH,

2. STATE BANK OF INDIA, REP BY ITS BRANCH
MANAGER,CALICUT.

3. THE GENERAL MANAGER, DISTRICT
INDUSTRIES CENTRE, CALICUT.

R2 BY ADV. SRI.K.K.CHANDRAN PILLAI, SC
R3 BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.22257 of 2007

.....

Dated this the 19th day of July, 2007.

JUDGMENT

Petitioner is in this court a second round challenging recovery proceedings for recovery of the very same loan taken from second respondent. This court vide Ext.P1 judgment dated 1.2.2005 extended the OTS benefit granted by the Bank. This was on condition of payment of future interest. In fact judgment was based on petitioner's undertaking to settle liability and therefore, this court directed the petitioner to hand over free of possession the mortgaged property to the Bank, if default is committed. However, inspite of specific direction contained in the judgment, the petitioner ignored the judgment and filed another letter namely, Ext.P5 giving totally different proposals to the Bank. It is seen from Ext.P4 letter dated 16.11.2005 issued by 2nd respondent-Bank that the Bank was unaware of Ext.P1 judgment which is very strange. In any case inspite of offer by the Bank giving one more opportunity to the petitioner to settle liability, he did not avail the same. I am of the view of that petitioner has absolutely no right to challenge present recovery proceedings as petitioner has violated Ext.P1 judgment which was passed based on

petitioner's own undertaking given in court two years back. The W.P. is therefore devoid of any merit and is therefore dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms